



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

8/5/2014

Elgin Service Center, Inc.  
18018 State Route 81  
Venedocia, Ohio 45894

RE: Directors Final Findings & Orders  
PTI  
Van Wert County

Calfee, Halter & Griswold LLP  
Attn: Christopher Jones  
1100 Fifth Third Center, 21 East State Street  
Columbus, OH 43215-4243

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings and Orders in the referenced matter.

Sincerely,

Ed Swindall, Supervisor  
Permit Processing Unit  
Division of Surface Water

ERS/dks  
Enclosure

**CERTIFIED MAIL**

cc: M. Mann, DSW  
R. DeMuth, DSW  
B. Schuch, DSW  
L. Reeder, DSW  
J. Martin, DSW  
T. Heffelfinger, DMWM  
T. Poffenbarger, NWDO/DSW  
Fiscal  
Compliance Section  
M. McCarron, PIC  
H. Griesmer, PIC  
B. Fischbein, Legal  
M. Shapiro, Legal  
A. Smoktonowicz, Legal  
P. Fallah, DEFA  
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**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

AUG -5 2014

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

**Elgin Service Center, Inc.  
18018 State Route 81  
Venedocia, Ohio 45894**

**Director's Final Findings  
and Orders**

**Respondent**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Elgin Service Center, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA" or "Agency") under Ohio Revised Code ("R.C.") 6111.03(H), 3734.13, and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent or the ownership or operation of the Elgin Service Center identified below shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapters 6111 and 3734 and the rules adopted thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

**WATER POLLUTION CONTROL**

1. Respondent, an active Ohio corporation for profit, entry number 503775, owns and operates the Elgin Service Center, a K-building manufacturing facility, which is located at 18018 State Route 81, Venedocia, Van Wert County, Ohio, ("Facility").
2. The Facility has two septic tanks that service two restrooms, with both tanks containing outlets that discharge to a catch basin, which flows less than 0.5 miles and then discharges to Wolf Ditch, a water of the state.

**Violations of Ohio Water Pollution Control Laws  
Regulatory Statutes**

3. Ohio Administrative Code ("Ohio Adm.Code") 3745-42-02 requires the Director's issuance of a Permit to Install ("PTI") prior to the installation of a new "disposal system," or the modification of a "disposal system."
4. R.C. 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired National Pollutant Discharge Elimination System permit issued by the Director or if an application for renewal of such permit is pending.
5. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including Ohio Adm.Code 3745-42-02. Each day of violation is a separate offense.
6. R.C. 6111.09 provides that any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violation.

***PTI and Unauthorized Discharge Violations***

7. Respondent installed a septic tank in 2005 or 2006 to service the Facility's restrooms.
8. On June 21, 2012, Ohio EPA inspected the Facility and checked the Agency's files and determined that the installation of the septic tank in 2005 or 2006 was completed without submitting an application for a PTI or receiving approval of the Director, with such installation a violation of R.C. Chapter 6111, and Ohio Adm.Code 3745-42-02.
9. A PTI application with detail plans was delivered to Ohio EPA on or about September 24, 2013, with several revisions made to such application and plans to correction Ohio EPA stated deficiencies.
10. The septic tanks<sup>1</sup> discharged raw or partially treated sewage to a catch basin, which then flowed into Wolf Ditch in violation of R.C. 6111.07.
11. In August 2013, Respondent temporarily capped the septic tanks outlets to prevent further discharge of sewage to waters of the state.

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<sup>1</sup>There is an earlier installed septic tank at the facility.

12. The following actions are required to return the facility to compliance with R.C. Chapter 6111:
  - a. Cement close the outlet/inlet on the two septic tanks;
  - b. Provide the volume of each of the two tanks, and
  - c. Provide a detail plan title sheet.

#### ***Director Considerations***

13. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of R.C. Chapter 6111.
14. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Adm.Code Chapter 3745-42.

#### **HAZARDOUS WASTE**

15. Respondent is a "person" as defined in R.C. 3734.01(G) and Ohio Adm.Code 3745-50-10(A).
16. At the Facility, Respondent generates "hazardous waste" as that term is defined by R.C. 3734.01(J) and Ohio Adm.Code 3745-50-10(A) and 3745-51-03. Respondent is a conditionally exempt small quantity generator of hazardous waste and has been assigned EPA ID number OHR000169870. The hazardous wastes generated by Respondent at the Facility include spent solvent from paint cleaning operations (hazardous waste code F003 as described in Ohio Adm.Code 3745-51-31).
17. On July 2, 2012, Ohio EPA Division of Materials and Waste Management ("DMWM") conducted a complaint investigation at the Facility. During this inspection, Respondent informed Ohio EPA that spent solvent was taken to the residential property of Respondent's owner and used as an accelerant to burn brush and clear the land. As a result of this inspection Ohio EPA determined that Respondent had, *inter alia*, failed to evaluate wastes to determine if they are hazardous, in violation of Ohio Adm.Code 3745-52-11. Specifically, Respondent failed to evaluate the spent solvent generated at the Facility.
18. By letter dated July 12, 2012, Respondent was notified of the violation referenced in Finding No. 17 of these Orders.

19. By electronic mail dated January 3, 2013, Respondent provided the material safety data sheet for the solvent in response to the violation referenced in Finding No. 17 of these Orders.
20. Based on the January 3, 2013 submittal by Respondent, Ohio EPA determined that the spent solvent met the hazardous waste listing description for F003 as described in Ohio Adm.Code 3745-51-31. Because of this, Ohio EPA determined that Respondent had, *inter alia*, transported or caused to be transported hazardous waste to an unauthorized facility in violation of R.C. 3734.02 (F) by taking the hazardous waste spent solvent to the residential property of Respondent's owner.
21. On January 17, 2013, in a conference call with Ohio EPA, Respondent clarified that approximately ten (10) gallons of the spent solvents generated by Respondent were transported to the residential property of Respondent's owner from 2005 to 2009 for the purposes described in Finding No. 17 of these Orders.
22. By letter dated March 11, 2013, Ohio EPA notified Respondent of the violation referenced in Finding No. 20 of these Orders. This letter also notified Respondent that the violation referenced in Finding No. 17 of these Orders was abated.

#### V. ORDERS

1. Within thirty (30) days after the effective date of these Orders, Respondent shall:
  - a. Cement close the outlet/inlet on the two septic tanks at the Facility and provide written notification to Ohio EPA in accordance with Section X of these Orders within seven (7) days of the completion of said action;
  - b. Submit to Ohio EPA the volume of each of the two tanks, and
  - c. Submit to Ohio EPA a detail plan title sheet.
2. Respondent shall pay the amount of six thousand five hundred dollars (\$6,500.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to R.C. Chapters 6111 and 3734. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" in the amount of five thousand two hundred dollars (\$5,200.00).
3. In lieu of paying the remaining one thousand three hundred dollars (\$1,300.00) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of one thousand three hundred dollars (\$1,300.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount.

4. Should Respondent fail to fund the SEP within the required time set forth in Order No. 3, Respondent shall immediately pay to Ohio EPA the remaining one thousand three hundred dollars (\$1,300.00) of civil penalty in accordance with the procedures set forth herein.
5. All payments required by these Orders shall be accompanied by a cover letter identifying Respondent and submitted to Carol Butler, or her successor at:

Office of Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

6. A copy of all checks submitted shall be sent to the Ohio EPA, Northwest District Office in accordance with Section X of these Orders, and to:

Mark Mann  
Environmental Manager  
Storm Water & Enforcement Section  
Ohio EPA  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Processing and Records Management  
Supervisor  
Ohio EPA  
Division of Materials and Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049.

## **VI. TERMINATION**

Respondent's surface water obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above. The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete." This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Adm.Code 3745-33-03.

Respondent's hazardous waste obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. of these Orders.

### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Facility.

### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

Unless otherwise specifically stated herein, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
ATTN: Enforcement Supervisor, Division of Surface Water

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**

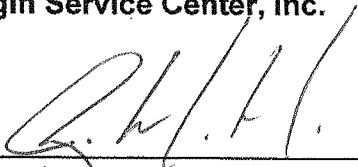


\_\_\_\_\_  
Craig W. Butler  
Director



\_\_\_\_\_  
Date

**IT IS SO AGREED:  
Elgin Service Center, Inc.**



\_\_\_\_\_  
Signature

\_\_\_\_\_  
JEFFREY W. McFALL  
Printed or Typed Name

\_\_\_\_\_  
Manager  
Title



\_\_\_\_\_  
Date